

**MINUTES**

**MONTANA SENATE**  
**56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

**Call to Order:** By **CHAIRMAN AL BISHOP**, on February 3, 1999 at  
3:20 P.M., in Room 410 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Al Bishop, Chairman (R)  
Sen. Fred Thomas, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Dale Berry (R)  
Sen. Chris Christiaens (D)  
Sen. Bob DePratu (R)  
Sen. Dorothy Eck (D)  
Sen. Eve Franklin (D)  
Sen. Don Hargrove (R)

**Members Excused:** Sen. John C. Bohlinger (R)  
Sen. Duane Grimes (R)

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Branch  
Martha McGee, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action: SB 81, SJR 5, SB 103, SB 209

**CHAIRMAN AL BISHOP** called the meeting to order and stated that he  
would give **Susan Good** about five minutes to speak, at the  
maximum.

**SUSAN GOOD** explained she wanted to read them some language they would recall from the last meeting when she appeared before them briefly asking about the drug ephedrine. She stated they have some language that probably is going to be modified by tomorrow, if the committee gives them the go ahead to proceed with a committee bill. It says that ephedrine may be immediately accessible for use by a licensed medical practitioner in a patient care area that is under the physician's direct supervision. She will be meeting with the attorney from the Pharmacy Board to make sure the language is satisfactory to them and that is all that she has to say. She is hoping for a 2/3 vote today from the Executive Committee. Thank you.

**Questions from Committee Members:**

**SEN. HARGROVE** stated that he still has an uncomfortable feeling, but he will support it, if we need to. His question still is, do we really need to? It seems to him that there must be standard procedures, there must be. The hospital must have the capability of doing that sort of thing now.

**SUSAN GOOD** replied no sir they do not.

**SEN. HARGROVE** asked, are there no other drugs that you have to have available?

**SUSAN GOOD** stated that ephedrine is the only one that is the emergency drug. The other drugs that are on the schedule, somebody asked her about fursaid, and she asked **Dr. Lind, MD**, specifically about that one, and he said no. The only drug that we need on an absolutely emergency basis, where you do not have time for somebody to go find a nurse to get a key, is ephedrine. He had checked with the Drug Enforcement Agency and they said, yes this is the result of a State of Montana statute. A statute that needs to be changed.

**EXHIBIT (phs27a01)**

**SEN. HARGROVE** remarked that he accepts the fact that they had done the research, and asked the people. He asked if she could have somebody from the Department of Justice, or an attorney representative that could assure him individually from the Department.

**SUSAN GOOD** responded yes. They expect to have the Department of Justice at the hearing, if the committee consents to have the committee bill.

**CHAIRMAN BISHOP** stated that **SEN. HARGROVE** is our resident drug expert.

**Motion/Vote:** SEN. CHRISTIAENS MOVED THE SENATE PUBLIC HEALTH COMMITTEE proceed with a COMMITTEE BILL. **Motion carried unanimously - 9-0.**

**EXECUTIVE ACTION ON SB 81**

**CHAIRMAN BISHOP** said they would take action on **SB 81**.

**Motion:** SEN. THOMAS MOVED THAT SB 81 DO PASS.

**SEN. THOMAS** indicated in their packets there was a set of amendments requested by the **SPONSOR, SEN. JOHN HARP**.

**Motion:** SEN. THOMAS moved that SEN. HARP'S AMENDMENTS #SB008101.asf, to SB 81 BE ADOPTED, at the Sponsor's request.

**EXHIBIT** (ph  
s27a02)

**SEN. THOMAS** asked **Susan Fox, Legislative Staffer, Legislative Council**, to give them some **background information in general**.

**Informational:**

**SUSAN FOX** said these amendments were prepared by **SEN. HARP AND DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**. Basically there are a couple of concepts, and if they looked at the title provisions, that covered them. The first amendment makes sure that the **DPHHS** can't use the funds appropriated for CHIP (Children Health Insurance Program) to expand medicaid eligibility criteria.

If there is insufficient funding for the program there is a change to the title in amendment #2, and the substance is in amendment #6. If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b), in order to reduce the number of persons who may be eligible to participate.

Amendment #8, requires that the rules adopted by the department for CHIPS be presented to and reviewed by an appropriate interim committee. It examines issues related to children and families.

Then in amendment #9, excess funds go to the General Fund. If there are too many funds, they revert to the General Fund.

In amendment #10, the contingent termination, is the basic rule. If the federal funding is terminated for this program, it terminates the program.

**Discussion:**

**SEN. BARTLETT** asked if she could ask a question of **Susan Fox** about amendment #9, which is the excess funds.

**CHAIRMAN BISHOP** clarified that some people from the **DPHHS** were present and available to answer some questions.

**SEN. BARTLETT** re-framed her question. She asked if that is both federal and state that would be affected if there were any excess funds left at the end of the biennium. Are they transferred to the General Fund. Would you please answer that question.

**MARY DALTON, Department Public Health and Human Services** stated that they have to have state match in order to draw down Federal Funds. What would revert would be any thing they are using as state match. They just wouldn't be able to draw down the Federal Funds. Those would revert to the others, however many other states are participating, to be redistributed.

**SEN. FRANKLIN** said she understands only a portion of that. If they could just clarify. She is thinking in terms of a question she asked during the hearing. Making sure they are reaching the folks they are supposed to be reaching. What would you do, if for some reason enough money wasn't expended. Any funds appropriated for the program that remain unexpended, are state funds that remain unexpended.

**MARY DALTON** responded yes. You have to have the state match before you can get the federal. You can't draw down the federal match, unless you have the state, too.

**SEN. ECK** said the question here is, suppose we have the state funds to match the federal funds. The only thing that would prevent us from using that fund would be not having enough children insured. Isn't that true?

**MARY DALTON**, answered that would be correct. This amendment merely says, it doesn't give it to the purview of the department. For instance, if there are excess funds left in the CHIP bill, you wouldn't be able to use that to spend on Medicaid or the D.V. Services, or any of the other services. It is a limited appropriation. This is the easiest way to say it.

**SEN. ECK** said the other issue is a certain percent, 10% that can be used for administration. At one time the committee was hoping maybe there would be some of that left for public health services, etc. What do you see, about how much of that you will need for administration, and whether there would be a possibility of using that share for other services?

**MARY DALTON** responded, **SEN. ECK**, and members of the committee the CHIP legislation, itself limits administration to no more than 10% of what the state has spent. It's not 10% of the grant unlike a lot of them. You can only spend 10% of what you have spent on the benefit portion of it. The other thing that you can spend the 10% funds on, if you had any left over, were public health programs that benefit everybody. For instance you could make your immunization for all children in the state as long as uninsured children would benefit as well. We don't believe in the first couple of years that there will be any money left over.

**Vote: SEN. THOMAS'S MOTION THAT SEN. HARP'S AMENDMENTS TO SB 81 BE ADOPTED. MOTION CARRIED WITH UNANIMOUS VOICE VOTE.**

**Motion: SEN. FRANKLIN MOVED AMENDMENTS #SB008102.asf to SB 81 BE ADOPTED.**

**EXHIBIT** (phs27a03)

**Discussion:**

**SEN. FRANKLIN** said **SEN. HARP** has agreed to this amendment and is comfortable with it. The rationale for this is, she knows that some of you have received information from the Montana Nurses Association about the role of advanced practices nurses, in not providing an extra for service, but being key players in providing primary health care

**Discussion:**

**SEN. THOMAS** restated as **SEN. FRANKLIN** explained, **SEN. HARP** is in favor of this amendment and he concurs in it as well.

**Motion/Vote: SEN. FRANKLIN restated that AMENDMENTS #SB00102.asf to SB 81 BE ADOPTED. Motion carried with all members present voting yes.**

**SEN. THOMAS** asked the **record** to show that **SEN GRIMES VOTED YES** on this amendment.

**CHAIRMAN BISHOP** indicated for the **record**, **SEN. BARTLETT** and **SEN. BOHLINGER**, both left proxy votes stating they wanted to be **recorded** as voting **YES** on this amendment. **EXHIBIT (phs27a04) EXHIBIT (phs27a05)**

**CHAIRMAN BISHOP** announced the vote on **SEN. FRANKLIN'S AMENDMENT #SB008102.asf TO SB 81** was **UNANIMOUS**.

**SEN. FRANKLIN** proposed an **AMENDMENT #SB008107.asf, EXHIBIT (phs27a06)** on behalf of physical therapy, page 2, line 16. She only had one copy of the amendment. She asked the committee to turn to page 2, line 16, following line 15, "(2) outpatient physical therapy services upon referral." The rationale for this again is the lower end cost of providing PT services to children who either have some sort of anomaly or break and to be able to provide preventative services. It is only on referrals, it is not elective. It is not that a family would walk into a physical therapist's office and say "my child needs physical therapy." The instances when kids need PT, is when they have had a broken arm, a broken leg, or some kind of injury where physical therapy is indicated. It would be a part of referrals. She asked if they could acknowledge, **Mona Jamison**, because of her background and work on this.

**Mona Jamison, Montana Chapter of the American Physical Therapy Association**, explained that the bill does not expressly exclude physical therapist by the language, but is not limited to. She did not have the bill in front of her and asked their indulgence. It is subsection #5. However, to not allow upon referral, and she underscored that, of the least test or tentative for physical therapy, as **SEN. FRANKLIN** described on a broken leg, she doesn't think it really serves the purpose or serves the funding of this particular bill. The reason "referral" is in there is to make sure a Mom just can't walk directly into the PT office. So there has to be that "gate keeper manager care." This guarantees that the least cost provider can participate, which seems to make the most sense in terms of dollars and cents. So they would urge, really urge, their support of this amendment and know that they understand that it is on referral only. Thank you.

**SEN. CHRISTIAENS** asked **Mona Jamison**. Wouldn't that kind of service already be available when you look under the inpatient and outpatient hospital services, why wouldn't physical therapy?

**Mona Jamison** answered, it is included. But only if it is hospital provided, and that's exactly what her concern is, in (1). That it is inpatient and outpatient describing hospital services, rather than saying inpatient hospital services, and outpatient

services. In presenting the amendment, in good faith, our intent was not to open it to any and all outpatient services. They believe that physical therapy is authorized in the bill, if it is hospital based, and that is what raised the issue of terms of guaranteeing the least cost alternative.

**SEN. BERRY** indicated that he had a question for **Mona Jamison**. He asked if there was a Fiscal Note attached. What is going to be the cost of this, and is it going to cost us some X numbers of children that could be covered?

**Mona Jamison** replied ,she doesn't believe that there is a fiscal cost to this. She said the reason is they are not here adding or requesting that it be added on as a new provider. Physical therapy services are already provided for in paragraph 1 of section 5. What they are saying is, if a doctor says, " who would you like to take your kid to for the therapy," and they say, "I would like to go to Kurt Hanson at his private business." That can occur. She can assure them, as representing the physical therapists, now for over a decade, they are the least cost alternative. Just because of the way their overhead is.

**SEN. BERRY** asked, it won't change the cost of these policies.

**Mona Jamison** said no, not upon referral. They are either going to end up at a hospital PT the only way the bill is drafted, or arguable now they can go to the least cost alternative. She suggests there could actually be a savings.

**SEN. CHRISTIAENS** asks if **Mary Dalton** could address that as well.

**SEN. THOMAS** has a question to be addressed to **John Larson**. Would he, **John Larson**, address the amendment that is before them, before the vote, since they had talked about this before, and would he explain.

**John Larson, Blue Cross and Blue Shield of MT**, explained that their view on this is that it is not a location. They are not in there listed by location. They are listed by types of service. Their interpretation of that, Blue Cross and Blue Shield and the Departments was that those types of service can be provided in an outpatient setting as well. The least restrictive setting and the lowest cost setting. They think that as **Mona Jamison** has indicated, it is already covered in the bill. His question, with this amendment, would be what about other things. What about other therapists. If you limit it to physical therapy, what about occupational therapy, what about speech therapy, what about other outpatient services. Then suddenly you are into listing every kind of service that's available.

**SEN. THOMAS** stated he visited with **SEN. HARP** on the amendment that **SEN. FRANKLIN** was offering, and he doesn't want this amendment on this bill. He can tell them, how you vote is up to you, but he doesn't want it in there.

**SEN. CHRISTIAENS** asked if **Mary Dalton** could talk about this please.

**Mary Dalton**, added to what **John Larson** said. For us this now becomes a new benefit, if you added us as an outpatient service and she doesn't have a cost for only physical therapy. She does know that they did originally have the actuary look at having physical occupational and speech therapy with the limit of 22 visits each and it would cost .37 cents more to put all three of them on to the policy. So there is some associated costs.

**SEN. ECK** said she was pleased to hear the report that these services were probably already going to be available because that is what she has been telling people. And that if they come in, in a position where they can expand service and services as they may want to next time. This is something that might want to specifically be written in. So far as adding the words "upon referral" to what we already have, she doesn't know if that really does anything, but she doesn't think that to list one particular service is going to help. She thinks in appropriate cases we can count on the physician to refer to the appropriate outpatient services.

**SEN. FRANKLIN** closed on her amendment. She stated that it is a judgement call. The spirit in which this is being offered is on the good faith of the physical therapists who are concerned and want to participate at the end costs. It is in that spirit she offered the amendment.

**Vote:** On Voice Vote, of **SENATOR FRANKLIN'S AMENDMENT #SB008107. to SB 81, (SEN. HARGROVE AND SEN. FRANKLIN** indicate their show of hands, for the **record to reflect both their "YES" votes**, and for the **record to reflect SEN. BOHLINGER'S proxy "NO" vote, Motion Failed.**

**CHAIRMAN BISHOP** asked **SUSAN FOX** to describe another amendment by **SEN. FRANKLIN.**

**EXHIBIT** (phs27a07)

**Susan Fox, Legislative Researcher**, clarified this amendment was in conjunction with **SB 103**, and the changes that the **DPHHS** requested regarding the privacy bill, that they amend the same Section in this bill #33-19-306. But it gave a broad exception to the disclosure requirement.

That issue surfaced in the **SB 103 Subcommittee Meetings**. She thought that the same amendment would be appropriately placed in this bill and it was developed with input from **John Koch, DPHHS**. Its to limit the disclosures required the by federal so that the Department can disclose this information, or the insurance companies can disclose it to the Department which in turn can disclose it for purposes and recording to the Federal Government.

**SEN. THOMAS** asked **Susan Fox** if they pass **SB 103** and that amendment is in that bill, doesn't that make it law.

**Susan Fox** answered if both bills were to pass, **SB 103 with the amendment** that may be considered, and put on this bill, it would end up being a conflict that would have to be fixed in the **HOUSE HUMAN SERVICES COMMITTEE**. She thought that since we had a **Subcommittee** that worked on it, and understood what the problem was, it may be just easier to deal with it now. If this amendment goes on, and the one is **SB 103** goes on, they would work together and there won't be a conflict.

**SEN. THOMAS** stated that if we put this into the bill and **SB 103** doesn't pass, then what.

**Susan Fox** answered that it still limits the disclosure to specifically to what the Department needs disclosure for. It does not give a broad exception to all insurance disclosure provisions for anyone that participates in the CHIP program. It works without **SB 103**, but it doesn't work with **SB 103**.

**SEN. HARGROVE** said the question had been answered, but he some how let it fly past him. If this passes, could we disregard **SB 103**.

**Motion:** **SEN. CHRISTIAENS** moved **SEN. FRANKLIN'S AMENDMENT #SB008105.asf** be adopted.

**Nancy Ellery, Department Public Health and Human Services** stated that she believes, and she read it quickly, but she believes that amendment is being discussed right now and relates to Sections which were deleted by the previous amendments that were approved from **Senator Harp**.

**SEN. FRANKLIN** stated that perhaps if she could offer a suggestion that they hold on this amendment to **Susan Fox**, and then use your history and expertise that when we move into the other House

should the other bill pass, we can hopefully try to make the case to them.

**SEN. CHRISTIAENS withdrew his MOTION** that **SEN. FRANKLIN'S AMENDMENT #SB008105.asf** to **SB 81 BE ADOPTED.**

**SEN. HARGROVE** stated to the committee there is another bill that was sitting and may never move. It may be in the **State Administration Committee**. It would be a Constitutional Amendment to do just what **SB 103** does here. If **SB 103** should somehow die, there will be another proposal to have that drawn as a Constitutional Amendment.

**Motion/Vote:** **SEN. THOMAS** moved that **SB 81 DO PASS AS AMENDED. Motion carried unanimously** with **SEN. BARTLETT, BOHLINGER, AND GRIMES** voting "YES" by proxy -11-0-.

**EXHIBIT (phs27a08) EXHIBIT (phs27a09) E**

**EXHIBIT (phs27a10)**

#### **EXECUTIVE ACTION ON SJR 5**

**CHAIRMAN BISHOP** thought there was a couple of amendments. He said that on line 16 and line 17, the language there looked a bit much to him. He held the bill back the other day, although somebody wanted to move it out of here. They hadn't read the bill.

**Motion:** **SEN. FRANKLIN** moved to **AMENDED SJR 5 - SJ000501.asf.**

**Vote:** Motion carried.

**EXHIBIT (phs27a11)**

**Motion/Vote:** **SEN. FRANKLIN** moved that **SJR 5 DO PASS AS AMENDED. With Sen. Hargrove voting no. Motion Carried - 7 - 1.**

#### **EXECUTIVE ACTION ON SB 103**

**SEN. THOMAS** explained they had half of a gray bill so they could follow along with a lot of the amendments that are before the committee in the form of amendments. It made their job easier to go through and understand what they were looking at, and try to figure what was best. The **Subcommittee Members** serving on

**SB 103**, was **SEN. FRANKLIN, SEN. GRIMES and himself**. We did spend a good deal of time on this legislation, and had a lot of good help from many people on the bill. The amendments in the form that they are proposed to the committee meet with **Sen. Grimes**, and my approval. He didn't think they met with **Sen. Franklin's** complete approval. He thought that is somewhat fair to say. She can advise you just what and where her approval is. One of the biggest issues that it came down to was marketing and whether you could use some data to market within your organization, insurance company more or less. There was some marketing left in the legislation and that would probably be our area of dispute. So the appointed Subcommittee on **SB 103** with a majority vote, recommends these amendments to you. If it's permissible to move the legislation **SEN. FRANKLIN**, would you do that.

**Motion:** **SEN. FRANKLIN** moved that **SB 103 DO PASS** for the purposes of discussion.

**Motion:** **SEN. THOMAS** moved the **AMENDMENTS #SB010302.asf** that the **SUBCOMMITTEE RECOMMENDED TO SB 103 BE ADOPTED.**

**EXHIBIT** (phs27a12)

#### Questions from Committee Members

**SEN. CHRISTIAENS** indicated he had one question. He wanted to know who the insurance support organizations may be? He asked if it is broad enough or does it include the companies that produce the inspection reports, such as Equifax which is the largest insurance reporting agency in the world. He clarified that he wants to know if Equifax is one of the insurance support organizations that is in this bill.

**SEN. FRANKLIN** asked if he could go over this again.

**SEN. CHRISTIAENS** said "yes", number 3, line 11 following organization, to any affiliate for marketing of insurance or financial products.

**SEN. FRANKLIN** said she wanted to take a stab at that subject. She said they really did not select one particular insurer by name. She really tried to assure the insurers this wasn't a pick on insurance company bill. They really didn't deal with particular insurance entities. She thought it wouldn't have been appropriate for them to discuss any particular entities. She thought that he was getting to a question in which she was not familiar. She asked the Department to respond to that.

**SEN. THOMAS** replied that he would give a quick response as well. He stated that **SEN. FRANKLIN** is more than accurate. They didn't

discuss names. They have some tables that were handed out, company charts, didn't have different company names that you are welcome to. In this aspect, would a company such as you identified be a member say, under this company. If they are a member of this company then they would be part of that.

**SEN. CHRISTIAENS** indicated that he didn't have the chart.

**SEN. THOMAS** continued he doesn't think that within the term, a lot of this bill fits within the term on page 3, line 15, insurance function. So within the scope of them being within the insurance function, they can have data to do their job. That would be contained within there. They would not be able to say, if XYZ company contracted to Equifax, to do part of their insurance function. They could not turn around and use Equifax to market. They are not an affiliated company. He guessed that answered his question.

**SEN. FRANKLIN** agreed.

**SEN. CHRISTIAENS** asked if there was an insurance company present. Somebody that does underwriting. He asked if they use an outside source to develop some of the information they use in underwriting.

**Susan Witte, Blue Cross and Blue Shield** answered, stating that she doesn't believe that Blue Cross uses an outside source.

*{Tape : 1; Side : A; Approx. Time Counter : 1 - 33}*

**SEN. CHRISTIAENS** stated that's right. This is a bigger issue than what he thinks the members are aware of. Under the Fair Credit Reporting Act, which is Federal Law, it was developed in 1974, companies such as the one he mentioned, produced the reports that are used in the underwriting. That information is used in data banks all over the country. He would like an insurance person to talk to the committee before they act on the bill.

**SEN. FRANKLIN** said **Russell Hill**, who just walked into the room, might be able to speak to this. They did some work on the bill, and on how information would be shared. There was some restrictions placed on the sharing of information. **Russell Hill** has done a fair amount of research in terms of how information can be shared. He might be able to answer as to rightly or wrongly to your question. She asked if **Russell Hill** could address the committee.

**Russell Hill, Chief Legal Counsel, State Auditor's Office** said he doesn't know the question.

**SEN. FRANKLIN** asked if they could reformulate the question, and since **Russell Hill** has the background, perhaps he could help them formulate the question, that **SEN. CHRISTIAENS** needed answered.

**SEN. CHRISTIAENS** said, if they have the bill in front of them, they should be able to understand it. On line 10 of the Title, after the information about an individual by an insurance institution, it's the next section, insurance producer, or insurance support organization. His question is, "the insurance support organization and who is included in that." The company that he referred to is Equifax. They are only one of the companies, however they are the largest in the world. They use the information. There are companies who sell those lists. He worked for this group for 15 years and he knows what happened. If they are not one of those, they should be.

**Russell Hill State Auditor's Office**, said he is not familiar with Equifax, but from what **SEN. CHRISTIAENS** says, it sounds like they do fit within the definition of insurance support organization. He suspects that the folks with the industry, that disagree will make that clear. An insurance support organization is, in general, the kinds of organizations that provide information to insurance companies. They may collect it originally for insurance companies. They may collect it from elsewhere like credit ratings. Is that what they are talking about?

In his opinion they come within this definition, but he can't say. He hasn't specifically looked at it.

**SEN. THOMAS** said being part of that function, is part of their definition of an insurance function. Part of that process is what you are saying. They have said in this legislation, what the aspects of an insurance function is okay. We are not trying to stop insurance functions from happening.

**Russell Hill** said that is exactly right. They are saying you have included it within the context of an authorization form, but if there is secondary disclosures, you may have to get that permission. But absolutely, if it is an insurance function, and it is in that exchange of information, they were not stopping it.

**SEN. THOMAS** said that is alright, what they just talked about. That is what the legislation anticipates would happen. You have company like Aetna, and they have hired Equifax to do something for them, to be part of the insurance function. But they are not

related financially, those two companies; okay. Can they share this data back and forth for marketing purposes?

**Russell Hill** asked if they are talking health care information.

**SEN. THOMAS** answered he thinks that is **SEN. CHRISTIAENS** concern.

**Russell Hill** asked, we are talking the medical record information and the marketing is by Aetna.

**SEN. THOMAS** answered, "no" by Equifax, he thinks that is the concern.

**Russell Hill** stated his initial instinct is "no". It doesn't become an insurance function.

**SEN. THOMAS** agreed that was his understanding also.

**SEN. THOMAS** said to **SEN. FRANKLIN**, if he read the paper right, she worked with them a great deal on this bill. He has indicated his general acceptance with these amendments.

**SEN. FRANKLIN** said she wanted to thank the committee members and all the Subcommittee folks. This was one of the better processes of committee meetings that she has been involved with for 5 years. It was a really good professional effort. Everybody kind of whittled away at the pieces that were significant for them. It was a really good process. Thank you to the chair, and those that participated.

Some of the issues that were concerns, did get resolved. There is a basic philosophical difference. The terms of the bill was a little broader in marketing functions, than she would have liked. She is comfortable with the half-a-loaf theory. They are in a better position than they were before, and that is kind of where they are.

**SEN. FRANKLIN** said for the record, she is going to vote against the amendments. She would have liked to have not seen the intra-affiliate marketing. That is the real crux of it. Quite honestly, the amendments on Page 11 talk about really the core issue, which was whether or not, insurers could share between their affiliates the information for marketing purposes.

This does permit them to do it, but it limits it to personal information, not medical information. Does this make sense to the Committee. That is why she calls it the half-a-loaf. They can share between affiliates in which originally the intent of the bill was, quite honestly, to limit the affiliates from

sharing. The affiliates are so broad, they are just huge companies. That was the idea, that you could narrow it down. Well they didn't win on that. It was an important amendment for **Jon Metropoulous, Farmers Insurance Group of Companies**. It was an important amendment for **ACLI** (American Council of Life Insurance), she lost on that amendment. That is the bottom line.

In the amendments as they sit, affiliates can share information between them, but on the other hand, what they can share will be limited to personal information. No personal information, you could make the arguments pretty broad. Its name, occupation, personal habits, date of birth, maybe financial information. There is a lot of personal information, but they can't share health care information. Again thanks to the Committee, that is why she called it half-a-loaf. They are limiting it somewhat, but it is broader than what she would have liked. She asked the Committee members if that was clear. When push came to shove, that was the core philosophical dispute.

**CHAIRMAN BISHOP** said he hopes this bill doesn't come on the Floor on Saturday morning.

**SEN. CHRISTIAN** said he has to mention this because its exactly that kind of information, and the personal information that for years had the Blackfeet Indian Reservation with no one who would insure any one who lived up there. Because, and this goes back to the time when he worked for the company, because of financial and personal habits of Native Americans, because it could be proven that they had more auto accidents. Their driving records were poor, no company would insure them, Their were red lined. That had to change over the years, and this is why he still has a real problem with what the bill is allowing. He thinks it is better in the fact that maybe medical information is a little closer held, but he doesn't like the bill.

**Vote:** Motion carried 5-4 with **SEN. ECK, CHRISTIAN, BARTLETT AND FRANKLIN**, voting no.

**Motion/Vote:** **SEN. THOMAS** moved that **SB 103 DO PASS AS AMENDED**. Motion carried 8-1 with **SEN. CHRISTIAENS** voting no.

#### EXECUTIVE ACTION ON SB 209

**Motion:** **SEN. CHRISTIANS** moved that **SB 209 DO PASS**.

**Discussion:**

**SEN. CHRISTIANS** said they passed on to the Floor **SB 219** which was the partial parity bill. **SB 209** is full parity. In every meeting that he attended in the reporting states groups nationwide, the discussion have been around full parity for mental health. We don't get there. He is pleased to see partial parity pass, but full parity does need to come into place. He thinks, within a few years, they will find the savings that come about treating mental illnesses of such, especially in the work place and in other locations. Because these are preventable, if found early and treated early, and that the savings are definitely there. Business will tell you that when this kind of an illness is diagnosed early, treated early, that the employees remain on the job and remain productive. And as medications continue to be developed, in regard to all types of mental illness, the folks who 10 years ago were not able to be productive, or stable, currently are productive citizens. He would have liked to see full parity pass this session, but partial parity is a step forward and it was the right thing to do.

**SEN. BARTLETT** said during the hearing on this bill **SB 209**, it is a little tricky for her to catch as much information as was offered during testimony as rapidly as the testimony is presented. She left the hearing uncertain about, in regard to full parity, which states were covering, and had provided some full parity coverage, what their experience has been. There was also the question raised in regard to coverage of alcohol and substance abuse and addiction. And whether or not other states that have full parity have included alcohol and substance abuse down on line 26.

It's encouraging to her to see that they may have the opportunity here to learn from the experience in other states. Certainly from a legislators point of view, given comments of the opponents which talked about the costs they would see in a full parity bill, from the view of a legislator it would really be wonderful if people supporting full parity and insurers concerned about the costs could reach some agreement on what information from the states that have full parity they all consider to be valid information. So that they get some agreement and have that kind of a basis in which to make a decision and its so difficult within the constraints of 90 day legislative session for legislators or their staff - limited as it is to be able to ferret that kind of information out and evaluate its accuracy and its validity, as they all know, you can question any set of facts, any set of information on the basis of a world of issues, she would certainly encourage people involved with this issue to try to agree on what they would consider to be valid measurement of the experiences in other states. Prior to another session,

some idea of how applicable that experience in another state might be to the State of Montana, any difference that might be taken into account. These are really tough issues because they are complicated and get complex real fast. They cannot give them the time they deserve within a legislative session, that kind of preparatory work at least as a member of this committee, she would deeply appreciate.

**SEN. FRANKLIN** commented with our new committee structure there might be some ways to formalize that study as either an interim study, or a task force, so they could look at how does parity-really work. Collect some of that data on the other states experience with parity, and what our own experience will be in two years, using partial parity. She asked if they can recommend to any of the committees at this point, any of the committee structures.

**SEN. BARTLETT** answered the process is the same as it has been in the past in terms of requesting and introducing study resolutions.

**SEN. THOMAS** said **SEN. BARTLETT'S** comments are extremely well placed. He addressed a question to **Chuck Butler**. It is not a request, but pretty close to a request. What could they offer in this line.

**Chuck Butler, Blue Cross and Blue Shield of Montana.** He too appreciates the comments of **SEN. BARTLETT**. Just to give as an example, in the last year he believes in his testimony the other day he mentioned that in the last year, Blue Cross and Blue Shield of Montana and Yellowstone Community Health Plan and their commercial competitors and others sat at the table with people from the insurance department and representatives of substance abuse and alcohol, drug dependence community providers from all across the State of Montana.

They worked on a lot of the information and issues that **SEN. BARTLETT** addressed from the other side on the mental health area. But they did it on the alcohol and drug treatment programs. In fact they have reached over the last several months an agreement on some new legislation which he believes they will be seeing in just a few days.

It's a result of an agreement he and **SEN. CHRISTIAENS** have and he is proud to say that effort paid off as a result of a lot of hard work. He can tell them and the Insurance Commissioner's staff will tell them, many many hours went into this. It was done on an informal basis.

**SEN. ECK** said the last two years, the educational effort, not just trying to educate legislators, but really educating the public on mental health issues, mental illness has been tremendous. She thinks the local groups in each community that work on this need to be commended. She thinks they will keep on working. She thinks they are making very good progress.

**SEN. CHRISTIAENS** stated he knows it has been circulated in committee for freshmen legislators serving on this committee to go to the Conference on National Health Issues. He knows at the conference this will be an issue that will be discussed. He hopes that someone from the committee does go. He has been attending since 1994, and knows not very many people who go to the meetings are dealing with this specific issue.

This is also a national congressional issue. One of things he wants to share with them, is with full mental health parity, the Dominici and Wellstone bill in the US Congress, would have increased premiums in the private sector, by 3.2%. The original amendment on that did not pass. The increased expenditure would have been offset by a \$16.6 billion dollar decrease in public expenditures for mental health. He is convinced that the federal government will be moving forward in this area as well.

**CHAIRMAN BISHOP** said he mentioned during committee meetings that the National Conference on Health, is in Austin, Texas, March 19 - 21, 2000. So far he couldn't get any committee person to go. He even thought about going himself for a while.

**SEN. CHRISTIAENS** said he would really recommend it.

**SEN. THOMAS** said a lot of good discussion has taken place. They did pass **SB 219**. They are going to have a study. Everybody appreciates the fact that health insurance is expensive. They all appreciate the fact that some of these things that we do can add to that cost. Certainly **SB 219** is maybe only a tiny step. Hopefully it does a lot of good. In this case he doesn't think they are going to make the accommodation of **SB 209**, and he would ask that the committee retain the bill in committee. He thinks that is what they should do. He would ask their indulgence for a substitute motion to table the bill in committee.

**Motion/Vote:** **SEN. THOMAS** moved that **SB 209 BE TABLED**.

**Vote:** Motion carried with **Sen. Christiaens** voting no.

**SEN. CHRISTIAENS** said someone from the **DPHHS** was present to talk about rules process in that department because of a bill that passed in 1995, and it has not yet been codified.

**Kathleen Martin, Communicable Disease Control Bureau, DPHHS.** She understands the question has to do with the rule process and where they are with the rule process for the morticians, mortuary rules. She is happy to report that actually the process is on going. She didn't know exactly where it was, but there was no excuse for how late it is. However, the process is going forward. The rules were originally filed with the Secretary of State in September of 1998. The comment period ended in October 1998. The comments and responses have been compiled and are in their legal office. The staff has told her that the final version is ready to be filed with the Secretary of State, by February 26, 1999, at the latest.

She understands that there could be a possible change made to the rule because of a change in the definition of "infectious disease" which was in one of **SEN. FRANKLIN'S** bills. They may use some judgment and wait, and see what happens to her bill before they finalize these rules, or take a look at that, and see if it is going to have an impact. If it doesn't have any impact they will go ahead.

**{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 29}**

**ADJOURNMENT**

Adjournment: 4:35 P.M.

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SEN. AL BISHOP, Chairman

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MARTHA MCGEE, Secretary

AB/MM

**EXHIBIT** (phs27aad)